

**REMARKS AND SUMMARY OF THE OFFICE ACTION**

Reconsideration and withdrawal of the rejections of the application are respectfully requested in view of the amendments and remarks herewith. Claims 1-19 are pending in this application. Applicants have carefully considered the Office Action of 16 February 2005, including the references cited within. In response to the Action, claims 1 and 6 – 19 have been amended, and claim 16 has been cancelled, without prejudice, without admission, without surrender of subject matter, and without any intention of creating any estoppel as to equivalents.

No new matter is added.

It is respectfully submitted that the claims herewith and as previously pending are and were patentably distinct from the references cited by the Examiner, and that these claims are and were in full compliance with the requirements of 35 U.S.C. §112. The amendments to the claims herein are not made for the purpose of patentability within the meaning of 35 U.S.C. §§ 101, 102, 103 or 112; but rather the amendments are made simply for clarification and to round out the scope of protection to which Applicants are entitled. A summary of the Office Action is as follows:

The numbering of claims 5 – 18 was not in accordance with 37 CFR 1.126 and, thus, the Action indicates that the misnumbered claims should be renumbered as claims 6 – 19. Claims 18 and 19 were allowed. Claims 1 – 3, 5 and 13 were rejected under 35 U.S.C. §102(b) as being anticipated by Nakagawa (U.S. Patent No. 1,766,797). Claims 4 and 14 – 17 were rejected under 103(a) as being unpatentable over Nakagawa in view of Loyd et al. (U.S. Patent No. 5,193,524). Finally, claims 6 and 7 were rejected under 103(a) as being unpatentable over Nakagawa in view of Bourgeois (U.S. Patent No. 5,813,321).

**I. THE OBJECTIONS TO CLAIMS 5 – 18 ARE OVERCOME**

Claims 5 – 18 were inadvertently misnumbered and have been renumbered in accordance with 37 CFR 1.126 as claims 6 – 19. Claim 15 was inadvertently duplicated so duplicate claim 16 was cancelled.

**II. THE REJECTIONS UNDER 35 U.S.C. §102(b) ARE OVERCOME**

Claims 1 – 3, 5 and 13 were rejected under 35 U.S.C. §102(b) as being anticipated by Nakagawa. Specifically, the cooking apparatus disclosed in Nakagawa is cited in the Office Action as comprising a cooking container, a shield having a slanting bottom, and a lid having a handle.

Applicants respectfully point out, however, that the cooking utensil as claimed by Nakagawa comprises a domed cover with a plurality of notches on its periphery such that water can drain over the periphery at all points. Water, especially boiling water that boils over the side of the vessel, is automatically returned to the vessel (lines 9 – 15, and claim 1 in Nakagawa).

In contrast to Nakagawa, a frying apparatus according to the present invention comprises a cooking container and a shield, with the shield having a traversing hole in the bottom of the shield and wherein the bottom of the shield may be downwardly slanting (lines 1 – 12, page 11 and claims 1 and 2 of the present Specification). Because of the ring-shaped transversing hole, oil splatters are collected on the top surface of the shield and flow downwardly into the cooking container by means of gravity (lines 20 – 24, page 3 to lines 1-10, page 4 of the Specification). The use of notches around a periphery of a lid to return water to a cooking container, as contemplated by Nakagawa, would not work as efficiently as the present invention to return oil to the container because many of the oil splatters would remain on the upper part of the shield. Since drops of oil are denser than water, some of the oil that splatters on a portion of the lid not punctuated with a notch, may not run far enough to reach one of the peripheral notches and thus instead remain on the lid.

Applicants have amended claim 1 to more particularly point out and distinctly claim the subject matter of the present invention. It is respectfully submitted, therefore, that independent claim 1, and claims 2 – 17 depending therefrom, as amended, are patentable under 35 U.S.C. §102(b) over Nakagawa.

**III. THE REJECTIONS UNDER 35 U.S.C. §102(b) ARE OVERCOME**

Claims 4 and 14 – 17 were rejected under 103(a) as being unpatentable over Nakagawa in view of Loyd et al. (U.S. Patent No. 5,193,524). Specifically, the Office Action cites Loyd et al as disclosing a shield to be removably received by a cooking container, a handle, and a lid covering the upper portion of the shield and states it would be obvious to one of skill in the art to modify the cooking container of Nakagawa as taught by Loyd.

Applicants respectfully point out that the shield disclosed by Loyd, although removable, does not overcome the deficiencies of Nakagawa as set forth above. Loyd et al contemplates a shield or fluid overflow section having an arcuate side wall extending upwardly from the side wall of the main support section (Figure 1, and lines 25 – 50 column 5 of Loyd et al).

In contrast, the shield contemplated in the present invention has a bottom with a ring-shaped traversing hole and a side wall extending upwardly from the bottom, ensuring that oil splattering on the upper surface of the shield is prevented from spilling over the top of the cooking container by the upwardly extended side wall and flows downwardly to return into the cooking container by means of gravity (claim 1, pages 3 and 4 of the Specification). Thus, for the reasons set forth above, applicants respectfully submit that claims 4 and 4 – 17, as amended, are patentable under 103(a) over Nakagawa in view of Loyd et al.

Finally, the Office Action rejected dependent claims 6 and 7 under 103(a) as being unpatentable over Nakagawa in view of Bourgeois (U.S. Patent No. 5,813,321). Specifically, Bourgeois was cited as disclosing a supporting stand having a means for securing a cooking

container. The Action states it would be obvious for one of skill in the art to provide the device of Nakagawa with the stand disclosed in Bourgeois to provide a heating source to the container.

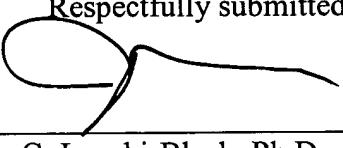
Applicants respectfully submit that, because claims 6 and 7 serve to further limit and define claim 1, and claim 1, as amended herein to clarify the present invention, is patentable over the cited prior art for the reasons presented above, dependent claims 6 and 7 are also patentable under 35 U.S.C. §103(a) over Nakagawa in view of Bourgeois.

Applicants respectfully assert that the amendments made herein are not an admission or acquiescence to the allegations of the Office Action. Rather, Applicants have elected to amend the claims to recite only the subject matter suggested as allowable by the Office Action in order to facilitate allowance of such claims. Applicants reserve their right to further prosecute the remaining subject matter in a divisional application.

In summary, it is submitted that Applicants' claims presently in the Application are patentable over the prior art of record, and that the present Application is in condition for allowance and favorable action is therefore respectfully requested.

The Examiner is invited to telephone the undersigned at his convenience, should any issues remain after consideration of the present Amendment, to permit early resolution of same. If any extension of time is required to obtain entry of this Amendment, the undersigned hereby petitions the Commissioner to grant any necessary time extension.

Respectfully submitted,



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